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C O N F I D E N T I A L SECTION 01 OF 02 ABUJA 002478

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SUBJECT: FCT MINISTER DELIVERS PRESIDENT'S MESSAGE ON ATIKU
PROBE

REF: A. ABUJA 2349

[1](#)B. ABUJA 2415

[1](#)C. ABUJA 2465

Classified By: Ambassador John Campbell for Reasons 1.4 (b and d)

[1](#)1. (C) Summary: saying he was "under instruction" from President Obasanjo to touch base with American Ambassador and the UK High Commissioner as representatives of "Nigeria's closest allies," Minister of the Federal Capital Territory Nasir el-Rufai met with the Ambassador on September 20. His purpose was to provide President Obasanjo's strategy for denying Vice President Atiku the ability to contest the presidential elections and thereby succeed him. El-Rufai also expressed concern that President Obasanjo had yet to indicate his preference for a successor, although many are pushing him to do so. He foreclosed the possibility of anyone other than the President's choice being selected in the 2007 elections. He also touched on the security situation in Northern Nigeria, which he sees as potentially more dangerous than the Delta. End summary.

[1](#)2. (C) After opening pleasantries in which el-Rufai noted that one of his children is an American citizen, the Minister emphasized that his call was at the explicit instruction of the President; he would also be seeing the British High Commissioner, similarly on instruction. The President's purpose is to brief the representatives of Nigeria's "closest allies" on his strategy for ensuring that the Vice President may not run for the presidency in 2007. Rather than seeking the Vice President's impeachment for corruption by the National Assembly, El-Rufai continued, the President had appointed an administrative panel of his close political allies (El-Rufai was a member, as was Minister of Education Obi Ezekwesili, Attorney General Bayo Ojo and Minister of Finance Nenadi Usman) to investigate charges of corruption against Atiku. President Obasanjo's government had accepted the resulting report of the investigation and sent it on to the Code of Conduct Bureau, which would consider favorably prosecuting Atiku before the Code of Conduct Tribunal. (This Tribunal may try and punish those otherwise immune from prosecution by virtue of their office, including the President, Vice President, governors and deputy governors.)

[1](#)3. (C) El-Rufai asserted that the Obasanjo's government's acceptance of the panel's report constitutes a legal indictment against Atiku, and, as such, precludes him from running for the presidency under the constitution: "Atiku is politically dead". El-Rufai reiterated several times that if Atiku abandoned his presidential ambitions, Obasanjo would in return abandon the case against him.

[1](#)4. (C) Throughout his conversation, el-Rufai stated or

implied that the Obasanjo government's proceedings against the Vice President had been initiated at the request of the U.S. Department of Justice for judicial assistance in its investigation of Congressman Jefferson. That investigation had revealed that the Vice President was profoundly corrupt, and the President had then appointed an administrative panel to investigate Atiku further. Observing that he had entered government service by working for the Vice President, the Minister said that as a member of the panel, he had been surprised by the blatancy of the Vice President's corruption.

Former chief of State Ibrahim Babangida was almost certainly equally corrupt, el-Rufai continued, but he had been far more clever; It would be harder to make a legal case against him than the Vice President, though the Obasanjo government would try. Using the panel's findings, he continued, the President is intent on denying the Vice President the opportunity to campaign for the Presidency. The President, el-Rufai continued, is convinced that an Atiku presidency would return Nigeria to the "bad old days" of rampant corruption under military rulers Babangida and Abacha. The President's method to prevent an Atiku run for the presidency is to have him indicted and tried for corruption by the Code of Conduct Tribunal, which under the constitution has jurisdiction over individuals otherwise immune to prosecution because of the offices they hold. Indeed, el-Rufai continued, the President argues that the government's acceptance of the panel's report, and its forwarding of it to the Code of Conduct Bureau, constitutes an indictment against Atiku, thereby ensuring that the Independent National Electoral Commission will find that he is ineligible to run for high office. El-Rufai acknowledged that both the Code of Conduct Bureau and the Tribunal are moribund, at present. But, he continued, there is no other way: impeachment by the National Assembly is a political impossibility. Indeed, he continued, the President had only sent the panel's report to the Senate

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as a matter of courtesy. He did not expect the National Assembly to take any action.

15. (C) El-rufai stated that the Attorney General is now working on an "airtight" case against the Vice President for submission to the Code of Conduct Bureau and to be tried by the Code of Conduct Tribunal. The latter, he continued, is made up of three judges, with the chair "recently appointed" from Edo state. He predicted that the Bureau would soon take the lead in developing cases against other sitting officials, including at least five governors whom he expected would soon be indicted before the same tribunal: Zamfara (Presidential aspirant Sani Ahmed), Abia (Presidential aspirant Orji Kalu), Enugu (Chimaroke Nnamani) and Ekiti (Ayo Fayose), but was unsure whether the fifth governor was from Kaduna (presidential aspirant Ahmadu Makarfi) or elsewhere. El-Rufai noted that a person convicted by the Code of Conduct Tribunal could appeal first to the Court of Appeals and subsequently to the Supreme Court. He acknowledged that the process against Atiku could take a long time. But, at the heart of the President's strategy is the argument that the Vice President has already been indicted by the government's acceptance of the report of the administrative panel, and on that basis the Independent National Electoral Commission (INEC) must bar him from a run for the Presidency.

16. (C) El-Rufai expressed concern that Obasanjo had yet to indicate his preference for a successor, although many around him are pushing him. El-Rufai said that the President has agreed in principle to select a group of six potential nominees for vetting ahead of the PDP nomination process. El-Rufai said that the plan would be to pitch the six against each other for the top positions and develop the others for future elections. Comment: el-Rufai is likely to see himself as a member of that group; he has long-term presidential aspirations. End comment. He also repeated the oft-heard opinion that former Chief of State Ibrahim Babangida would not remain in the race. "Unless he is 150 percent certain that Obasanjo will guarantee his election, he

will withdraw," el-Rufai said.

¶17. (C) El-Rufai also touched on the security situation in Nigeria. He said that the North worries him more than the Delta. In the Delta, he continued, we must "remove the guilt of underdevelopment and then enforce law and order." El-Rufai said this could be accomplished with the right application of "sincerity and political will". He worried that underdevelopment in the North, though, would prove more intractable, and impoverishment could lead to it to become a safe haven for "radical elements," though that has not yet happened. He applauded the embassy's provision of full consular services in Abuja from September 25 and various USAID educational assistance programs targeted on Muslim women.

¶18. (C) Comment: The Code of Conduct Bureau and Tribunal have been invisible and, as el-Rufai acknowledged, moribund. In a September 19 conversation with the Ambassador, Atiku never once mentioned it, focusing instead on possible impeachment (Septel). It remains to be seen whether trial by the Code of Conduct Tribunal would be accepted as legitimate by the political establishment. Atiku's legal strategy, to seek an injunction against the administrative panel's report, if successful, would appear to also block its use by the Code of Conduct Bureau and Tribunal) leaving Atiku free to contest the election. Lawyers whom the mission has consulted informally say that the Vice President can mount a strong prima facie case against the panel: it was appointed solely by the President and was made up exclusively of his political allies. And there is no explicit provision for such a panel in the constitution.

¶19. (C) Comment, continued: El-Rufai's visit may signal that the struggle between the President and the Vice president is moving from public mud-slinging into the judiciary system. Despite Atiku's confidence that he will prevail, the courts in the past have been open to influence from the President. INEC is similarly entirely made up of persons appointed by the President, and it is beholden to the executive for its funding. Some of the Vice President's political allies have therefore argued that the Vice President should avoid shifting the terrain of the conflict away from the National Assembly to the judicial system. End comment.
CAMPBELL